

CHAPTER 1

FILING THE NOTICE OF APPEAL

The filing of the *Notice of Appeal* is the event that begins the entire appeals process. It notifies the superior court, the Court of Appeal, and the opposing parties involved with the case of a person's intentions to have the Court of Appeal reexamine all or part of the superior court trial for errors of law. The *Notice of Appeal* must meet strict content and time requirements, set out in California Rules of Court (CRC). Additionally, the payment of certain fees must accompany the *Notice of Appeal*. The following chapter describes those requirements and [Sample Form A](#) provides detailed instructions for preparing your own *Notice of Appeal*. This chapter also discusses the topic of appealability, which determines if a person has the legal right to appeal a decision in a superior court case.

The Designation of the Record is discussed at length in Chapter 2. Frequently, however, appellants file their *Notice Designating the Record on Appeal* at the same time that they file their *Notice of Appeal*. If you would like to do so, make sure that you thoroughly read Chapter 2 along with Chapter 1.

Deciding If You Can Appeal What The Trial Court Did

Appealability, meaning a person's legal right to have the Court of Appeal review a decision that was made in the superior court, can be a tricky issue.

(1) In order to appeal, you must be aggrieved³ by a decision at the superior court. Generally, you would have been considered to have “lost” at the superior court. You also must have been a party in the case in the superior court. You may not appeal for a spouse, a child (unless you are the child's guardian), or a friend.

(2) Even if you were aggrieved, not every court ruling is appealable. While there are numerous exceptions, in most cases you can appeal only a **final judgment**. The final judgment tells what the final result of the case is – who has “won,” who has “lost,” and what actions must take place (i.e., the payment of

² Aggrieved means the superior court or administrative agency made a decision that negatively affects your legal rights (for example, it upheld your being fired by your employer) or cost you money (for example, ordering you to pay doctor bills for someone you hurt in a car accident that you caused).

money). The court usually issues a final judgment at the end of the case and that judgment says what one or more parties must do (such as pay money to the other party). This judgment may have been made by the superior court judge or a jury. All final judgments are appealable.

You can also appeal most **orders** the trial court makes after final judgment. After the judge or jury has issued a final judgment, the judge may order further instructions to one of the parties. For example, after a trial, sometimes the side that won may make a motion for attorney's fees, which the judge may grant with an order to pay attorneys fees. Such orders after final judgment are also appealable.

Many cases end without a trial because the judge decides the plaintiff doesn't have a case even if everything in the complaint is true. (This is called a demurrer.) Other cases don't get to trial because the judge decides the plaintiff doesn't have enough evidence to have a chance of winning at trial, even looking at that evidence most favorably to the plaintiff's position. (This is called a summary judgment.) When a trial court grants a demurrer or summary judgment, the defendant is entitled to a dismissal of the case. Such a dismissal is appealable. However, until the court issues an order dismissing the case, the demurrer or summary judgment cannot be appealed. Furthermore, if a trial court denies a demurrer or summary judgment, that denial is not appealable and can only be challenged through a writ.

Special considerations are discussed at length in [Appendix 7](#). For a list of less typical decisions that can be appealed or for more information about what constitutes an appealable judgment or order, refer to the California Code of Civil Procedure, section 904.1.

Finding the Appealable Decision In The Record

To show the superior court and the Court of Appeal that you are appealing from an appealable judgment or order, the court requires a certified, **file-stamped** copy of the superior court's ruling. The file-stamping on the document shows the date that the superior court filed a particular document and certifies that the document is official. **This file-stamped documentation is required in all appeals; without it, your appeal will be rejected.**

Because of the different circumstances in each case, the file-stamped appealable judgment or order may be presented to the court in a number of different forms. In general it could be a minute order (explained below) or a separate piece of paper labeled Judgment, Order, or Order after Judgment. Sometimes, a final judgment will not have been prepared during the trial, in which

case either you or the opposing party must prepare it and get the trial court to file-stamp the document.

In the simplest situation, the superior court file will contain a formal judgment, signed by the judge and file-stamped. If this is the case, you can use a photocopy of that judgment as the basis for your appeal. As with all documents from the superior court case, the judgment can be found in the superior court file.

Other times an appealable order will appear in the **minutes**⁴ of the case. You can identify the minutes by looking at the bottom of the pages in the superior court file and seeing the label “Minutes.” If the court’s ruling is an order, the clerk may record that ruling in the minutes. Because it is presented in the minutes, it is called a minute order. You can recognize the order because it is expressly called an order, or the language directs (orders) that something be done or it decides or resolves a dispute. If the minute order is signed by the judge and file-stamped, it may be used as the basis of the *Notice of Appeal*.

If you do not see something in the minutes labeled “Order,” look closely through the minutes to see if the court has said that you or one of the other parties should prepare a formal judgment or order. If that is the case, you may not use the minutes but must wait until a separate document titled *Judgment*, *Order*, or *Order After Judgment* has been prepared by you or one of the other parties, signed by the superior court judge, and file-stamped. You then use this as the basis for your *Notice of Appeal*.

If there is no judgment in the court file, and nothing in the minutes says who is to prepare the judgment, then generally the winning party prepares the order or judgment. The Court of Appeal recommends that the order or judgment be signed by the judge and file-stamped in the upper right-hand corner. Before you start your appeal make sure you have a copy of this order or judgment. The date of the file-stamp is the date of the entry of the judgment. (If your order is in the minutes, the date of entry is the file stamp on the minutes.)

Finally, in some cases, no order or judgment has been prepared, no party has been directed to prepare the order or judgment, or the party who was directed to prepare one has failed to do so. Then, any party may prepare an order or judgment. Most often, it will be the appellant who does so because he or she needs the order or judgment to go ahead with the appeal. If you prepare a proposed order or judgment, under these circumstances, you must serve it (as discussed later) on opposing counsel and on the superior court. Ask for opposing counsel’s approval within a certain number of days, say 10 or 15. If opposing counsel approves, take or mail the approval along with the proposed judgment or order to the superior

³ The minutes are the official court record of what happened during the case and are written down by the clerk at the superior court.

court department where your case was heard. Ask the judge to sign it and the clerk to file-stamp it.

If opposing counsel does not approve the judgment or order or does not respond to your request for approval, the superior court will hold the proposed judgment for 20 days from the date of service. At the end of the 20 days the court may sign the order or judgment, hold a hearing, and/or make changes in the proposed order or judgment. In any case, the court will mail you a signed, file-stamped copy. It is this order or judgment that you should use as the basis of your appeal. A file-stamped copy of it must be filed with the court along with the Notice of Appeal.

Again, an appealable judgment or order is necessary in all appeals and a file-stamped copy of it must be filed with the Court of Appeal along with the Notice of Appeal. If you have questions about whether you have an appealable judgment or order, refer to the California Code of Civil Procedure, section 904.1, consult with an attorney, or contact the Clerk's Office at the Court of Appeal.

Preparing the Notice of Appeal

Look at [Sample Form A](#) and the accompanying instructions. They will guide you through the process of creating your *Notice of Appeal*. The *Notice of Appeal* is a relatively straightforward document. However, if you have questions about the document, refer to CRC rule 8.100(a) or contact the Clerk's Office at the Court of Appeal.

The *Notice of Appeal* must be filed at the superior court. Once the appellant has completed the *Notice of Appeal*, a copy must be served on all parties and the original must be filed, along with appropriate filing fees (discussed below), at any filing window of any branch of the superior court in the county in which your superior court case took place (CRC rule 8.100(a).) A Notice of Appeal may also be filed by the respondent of a case, in which case the respondent is filing a Notice of Cross-Appeal (CRC rule 8.100(e)). **Do not file the *Notice of Appeal* or *Notice of Cross-Appeal* at the Court of Appeal.** If you are filing your *Notice of Appeal* in Los Angeles County, it is highly recommended that you file the documents directly with the appeals section, located at 111 North Hill Street, Room #111, Los Angeles, CA 90012. For information on the locations of superior courts in the Second District, see [Appendix 2](#).

Service of documents means that you let the other parties and the court know what you are doing by having copies of the documents you plan to file with the court—in this case, the *Notice of Appeal*—mailed or hand-delivered to them. **Copies of all of the documents you prepare to file should be served on all**

counsel and self-represented parties, and the original should be filed with the court. Failure to properly serve a document on all appropriate parties will result in that document being rejected for filing by the superior court or the Court of Appeal.

A document may be hand-delivered or mailed only by someone who is over the age of 18 and is not a party in the lawsuit. For example, if you are self-represented in an appeal, you cannot hand-deliver or mail your *Notice of Appeal* to the parties. Someone else, an adult who is not a party, must do it for you. A *Proof of Service* must be filled out and attached to each document you file. This proof of service says who was served and how they were served. (See [Sample Form C](#).) Depending on whether you are having service done by mail or in person, the person doing the service needs to fill out the Proof of Service properly.

Filing Fees

Additionally, at the time that the appellant files the *Notice of Appeal*, unless the appellant has a **fee waiver**, he or she must pay two separate fees by check, money order, or cash. (CRC rule 8.100(b))

1. A \$655 filing fee payable to “Clerk, Court of Appeal,” and
2. A \$100 deposit, made payable to “Clerk of the Superior Court.”

If you, as appellant, have received a fee waiver from the superior court for the case number(s) you are appealing, include a copy of the fee waiver with the *Notice of Appeal*. This fee waiver also applies to the Court of Appeal filing fee. If you, as appellant, did not get a fee waiver in superior court, you may apply to the Court of Appeal for a waiver under CRC rules 3.50-3.63. (See also CRC rule 8.100(b).) A fee waiver allows persons below a certain income level to file their appeals without paying the filing fee. (See Sample Forms D & E for information on fee waivers.)

Defaults

If your *Notice of Appeal* is missing something the law requires (proof of service, appropriate fees, etc.) the Court of Appeal will find you in **default** and issue a *Notice of Default* to you. The *Notice of Default* formally informs you that you have not complied with the Rules of Court pertaining to the *Notice of Appeal* and, if you do not fix the problem(s) within 15 days (e.g., by providing a properly completed *Proof of Service*, paying the fees, or achieving a fee waiver), the Court will dismiss the appeal.

Throughout the appeals process, the Court of Appeal uses the *Notice of Default* to notify a party that they have failed to properly comply with the rules. *Notices of Default* are a warning; a *Notice of Default* always allows some period of time (usually 15 days) for the party to fix the problem with their appeal. If the party fails to fix the problem(s) set out in the *Notice of Default* within the time allowed, the Court may dismiss the appeal. If you receive a *Notice of Default* and do not understand the problem with your filing, refer to the rule in the CRC specified in the Notice or call or visit the Clerk's Office at the Court of Appeal.

Time Limits for Filing a Notice of Appeal

In the same way that deciding whether you have an appealable order or judgment can be difficult, figuring out the time limits for filing a *Notice of Appeal* can also be confusing. But, the time limits are extremely important. **If the *Notice of Appeal* is late in a civil case, the case must be dismissed (CRC rule 8.104(b)). There are no exceptions to this rule.** You can file a Notice of Appeal as soon as the order or judgment is signed by the superior court judge and file-stamped by the court clerk. However, there are three different situations that put different time limits on the filing of the Notice of Appeal. You should identify which of the three applies to you and proceed accordingly.

1. The first situation occurs if a *Notice of Entry of Judgment* has been served on the parties. The judgment in the case is “entered” when it is file-stamped; this is also called the entry of judgment. The parties may not know the exact date when this was done. The court clerk or any party may provide notice that the judgment was entered. The clerk may do so by mailing a *Notice of Entry of Judgment* or a copy of the judgment or order to the parties in the case. If this happens, the *Notice of Appeal* must be filed within 60 days of the date that the clerk mailed the *Notice of Entry of Judgment* or (Order). (CRC rule 8.104(a)(1).) Any party in the case may provide *Notice of Entry of Judgment* by serving each of the other parties with either (1) a *Notice of Entry of Judgment* ([Sample Form B](#)) or (2) a file-stamped copy of the judgment. A *Proof of Service* ([Sample Form C](#)) must be attached to either document. If this happens, the *Notice of Appeal* must be filed within 60 days of the date of the party's serving a copy of the judgment, minutes, or *Notice of Entry of Judgment*. (CRC rule 8.104(a)(2).) If the clerk mails the *Notice of Entry of Judgment* and a party serves the *Notice of Entry of Judgment*, the 60-day time limit starts on the earlier of the two.
2. The second situation occurs if there is no i. In this case, the appellant has 180 days after entry of the order or judgment to file the *Notice of Appeal*. (CRC rules 8.104(a)(3), 8.104(c).) Even if there are extensions (see next

section), the *Notice of Appeal* may not be filed if 180 days have passed since the entry of the order or judgment (recall that this is the file-stamped in the upper right-hand corner of the judgment or order).

3. Finally, if there is a *Notice of Entry of Judgment*, the time to file a Notice of Appeal can be extended if there is a timely motion:
 - For new trial (Civil Code of Procedure section 663(a) and CRC rule 8.108(a)).
 - To vacate (or set aside) the judgment (Civil Code of Procedure section 629 and CRC rule 8.108(b)).
 - For judgment notwithstanding the verdict or (Civil Code of Procedure section 659 and CRC rule 8.108(c)).
 - To reconsider an appealable order. (Civil Code of Procedure section 1008(a) and CRC rule 8.108(d)).

If any of these specified motions has been filed, you should carefully consult the appropriate Civil Code of Procedure and CRC rule 8.108 to determine the applicable deadline for filing the Notice of Appeal. A party filing a cross-appeal should carefully review CRC rule 8.108(e) to ensure compliance with the rule governing filing a cross appeal when the time to file an appeal has been extended by CRC rule 8.108(a)-(d).

Sample Form A

NOTICE OF APPEAL - INSTRUCTIONS

In order to appeal you must be "aggrieved". To be "aggrieved" the lower court or administrative agency must have entered a judgment or order that affects your legal rights or costs you money. Usually you must have been a party in the case in the lower court. You may not appeal on behalf of a spouse, child or other relative (unless you are a legally appointed guardian), or a friend. The notice of appeal is filed in the superior court and should be accompanied by a check, money order or cash of \$655.00, which is the filing fee. Checks or money orders should be made payable to "Clerk, Court of Appeal". A second check or money order for \$100.00 made payable to "Clerk of the Superior Court" is a deposit for the clerk's transcript. This second check need not be included if you, as appellant, plan to prepare an appendix under rule 8.124. If you do not have the money for the filing fee, an application for waiver of court fees and costs must accompany the notice of appeal. (See [Sample Form D](#), for Application for Waiver of Court Fees and Costs.)

The Notice of Appeal form is available online in Adobe Acrobat PDF format and may be filled out electronically for free at <http://www.courtinfo.ca.gov/cgi-bin/forms.cgi>. Select "Appellate" forms, then click on Form APP-002.

Filling out the Notice of Appeal form:

Caption

- (1) In the "Attorney or Party Without Attorney" area at the top of the form, fill out your name, mailing address, and telephone number where you can be reached during the day.
- (2) In the "Superior Court of California, County of" area of the form, specify the county, address, and branch name of the superior court that made the order or judgment you are appealing.
- (3) In the next box on the form marked "PLAINTIFF/PETITIONER" and "DEFENDANT/RESPONDENT" fill out the plaintiff's name and defendant's name as they appear in the superior court case caption.
- (4) Check the appropriate box for "Notice of Appeal" or "Notice of Cross-Appeal."
- (5) In the "CASE NUMBER:" box immediately to the right, write the superior court case number.

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Entry 1. State the date of the judgment or order you are appealing and check the appropriate box to describe the order or judgment. If it is not listed, check the "Other" box, describe the order you are appealing, and specify the code section that authorizes the appeal.

Entry 2. Provide the requested information only if you are filing a cross-appeal.

Sample Form A

Execution of Form. Write the date you are signing the Notice of Appeal, type or print your name legibly on the line at the bottom left of the page, and sign your name at the bottom right.

Page 2 - Proof of Service

Have someone over the age of 18 who is not a party to the action serve the Notice of Appeal and fill out the Proof of Service on page 2 of the form. See instructions accompanying [Sample Form C](#).

File:	Original plus fees in Superior Court Bring an extra copy to be file-stamped for your file
Serve:	All counsel All self-represented parties

- Date:

(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME:	CASE NUMBER:
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NOTICE TO PARTIES: A copy of this document must be mailed or personally delivered to the other party or parties to this appeal. A PARTY TO THE APPEAL MAY NOT PERFORM THE MAILING OR DELIVERY HIMSELF OR HERSELF. A person who is at least 18 years old and is not a party to this appeal must complete the information below and mail (by first-class mail, postage prepaid) or personally deliver the front and back of this document. When the front and back of this document have been completed and a copy mailed or personally delivered, the original may then be filed with the court.


PROOF OF SERVICE

☐ Mail ☐ Personal Service

1. At the time of service I was at least 18 years of age and **not a party to this legal action**.
2. My residence or business address is (*specify*):
3. I mailed or personally delivered a copy of the *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)* as follows (*complete either a or b*):
 - a. ☐ **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope **and**
 - (a) ☐ **deposited** the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (b) ☐ **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served:
 - (b) Address on envelope:
 - (c) Date of mailing:
 - (d) Place of mailing (*city and state*):
 - b. ☐ **Personal delivery.** I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> (TYPE OR PRINT NAME)		<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> (SIGNATURE OF DECLARANT)
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Sample Form B

NOTICE OF ENTRY OF JUDGMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF [Name of County]

[Name of Plaintiff from Superior Court case title],

Plaintiff,

v.

[Name of Defendant from Superior Court case title],

Defendant.

Superior Court No. [Number from Superior Court case]

NOTICE OF ENTRY OF JUDGMENT

On [date judgment filed in superior court], judgment was entered on behalf of [name of prevailing party from the Superior Court action]. Attached hereto is a true and accurate copy of that judgment.

DATED:

By: _____

Note: Attach a copy of judgment or order and Proof of Service

File: Original in Superior Court with Proof of Service.

Serve: All counsel
All self-represented parties

The above form is a sample only, the actual document must comply with CRC rules 2.100-2.119

Sample Form C

PROOF OF SERVICE BY MAIL INSTRUCTIONS FOR SUPERIOR COURT OR COURT OF APPEAL

Each document you prepare must be served on all counsel and self-represented parties in your case. The document must be served by mail or hand-delivered by someone who is over the age of 18, not a party to the appeal, and a resident of the county where the mailing or delivery occurred.

This sample form is for service by mail, which is the easiest and most common method of service. If you wish to have the document delivered in person instead of mailed, you may adapt this sample form by replacing line 3 with language indicating the name of the person(s) to whom the document was delivered, the date and time of delivery, and the address where the delivery occurred. (For sample language for a hand-delivery, see page 4, line 3b of [Sample Form F](#).)

All documents must be served on all attorneys of record and any self-represented parties. **If the document is a brief, you must also serve one copy on the Superior Court and five copies on the California Supreme Court. If the document is a brief or petition, you must serve one copy on any public officer or agency required to be served by CRC rule 8.29.**

How to serve a document:

Make a copy of your document for each person or entity you must serve and enough copies for filing with the Court of Appeal. The person doing the mailing must complete the Proof of Service and attach an unsigned copy to each copy of the document being served. The person doing the service should mail a copy of the document to each person listed in the Proof of Service by depositing it in the United States mail with postage fully prepaid. The envelopes may be deposited in a United States post office or mailbox. The original document cannot be filed with the court until service has been completed by mailing the copies. After the envelopes have been deposited into the mail, the original Proof of Service should be signed and attached to the original document for filing.

Filling out the Proof of Service form:

Fill out the case name, Court of Appeal case number, and Superior Court case number. If you are filing the document in the Superior Court, use the Superior Court case name. If you are filing in the Court of Appeal, use the Court of Appeal case name.

Fill out the name of the non-party over the age of 18 who will be doing the mailing.

On line 2, specify the residential or business address of the person doing the mailing, and check the appropriate line for residence or business.

On line 3, specify the date of the mailing, the name of the document being served (for example, "Appellant's Opening Brief"), and the place where the mailing took place. List the full names and addresses of all the parties or their attorneys to whom the documents are being mailed. If the

Sample Form C

document is a brief, you must also serve the Superior Court, the California Supreme Court (5 copies). If the document is a brief or petition, you must serve any public officer or agency who must be served under CRC rule 8.29. These addresses must also be listed on the Proof of Service.

Date the Proof of Service, type or print the name of the person doing the mailing, and include the signature of the person doing the mailing.

An original Proof of Service must be attached to every original document filed with the court. A copy of the Proof of Service must be attached to every document served on all counsel and self-represented parties.

Sample Form C

PROOF OF SERVICE BY MAIL

CASE NAME: _____
COURT OF APPEAL CASE NUMBER: _____
SUPERIOR COURT CASE NUMBER: _____

I, _____ (*specify name of person doing service*), declare as follows:

1. At the time of service, I was at least 18 years of age and not a party to this legal action. I am a resident or employed in the county where the within-mentioned service occurred.

2. My residence or business address is (*specify*):

_____ residence _____ business

3. On _____ (*specify date*), I served the _____ (*specify document*) by United States mail as follows: I enclosed a copy in separate envelopes, with postage fully prepaid, addressed to each individual addressee named below, and I deposited each sealed envelope with the United States Postal Service in _____, California, for delivery as follows:

(*List addresses and send 1 copy to each party*)

California Supreme Court
350 McAllister Street
San Francisco, CA 94102
(*5 copies of briefs only*)

_____ Superior Court

(*List address of Superior Court and serve 1 copy of briefs only*)

(*List address of any public officer or agency required to be served by CRC rule 8.29 and serve 1 copy of briefs only.*)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(*TYPE OR PRINT NAME*)

(*SIGNATURE OF DECLARANT*)

Sample Form D

APPLICATION FOR WAIVER OF COURT FEES AND COSTS - INSTRUCTIONS

When you file your notice of appeal, there is a filing fee of \$655.00 which is due at the time of filing. A deposit of \$100.00 needs to be paid to the Superior Court if you want it to prepare a clerk's transcript for you. If you feel you cannot afford these fees, you may fill out an Application for Waiver of Court Fees and Costs. Generally, you would file the application in the Superior Court when you file your notice of appeal. If you did not file the application in Superior Court you may file it in the Court of Appeal. Submit the application to the court along with the Order on Application for Waiver of Court Fees and Costs ([Sample Form E](#)).

The Application for Waiver of Court Fees and Costs form and the Information Sheet on Waiver of Court Fees and Costs are available online in Adobe Acrobat PDF format and the form may be filled out electronically for free at <http://www.courtinfo.ca.gov/cgi-bin/forms.cgi>. Select "General Legal" forms, then click on Form FW-001 for the form or Form FW-001-INFO for the information sheet.

Filling out the Application for Waiver of Court Fees and Costs form:

Caption

- (1) In the "Attorney or Party Without Attorney" area at the top of the form, fill out your name, mailing address, and telephone number where you can be reached during the day.
- (2) In the next box down, specify the Superior Court, address, and branch name of the court that made the order or judgment you are appealing.
- (3) In the "CASE NUMBER:" next box on the form marked "PLAINTIFF/PETITIONER" and "DEFENDANT/RESPONDENT" fill out the plaintiff's name and defendant's name as they appear in the Superior Court case caption.
- (4) In the box immediately to the right of the preprinted caption "APPLICATION FOR WAIVER OF COURT FEES AND COSTS", write the Superior Court case number for your case, and the Court of Appeal number if you have one.

Entries

- Entry 1. Check box "a" if you can't pay any of the court fees or costs. Check box "b" if you can pay part of the court fees or costs, and then write down what you can pay.
- Entry 2. Write your street address, city, state, zip code and telephone number where you can be reached during the day.
- Entry 3. Write your occupation, employer and employer's address. If you do not have a job, write "unemployed". If you have a spouse and your spouse has a job, write your spouse's occupation, employer and employer's address. If your spouse does not have a job, write "unemployed".

Sample Form D

Entry 4. Check the box if you are receiving financial assistance, then check the box or boxes next to the type of assistance you are receiving.

Entry 5. If you checked box 4 you have to fill out one of three boxes in entry 5. Check only one box. If you check box "a" you must write your Medi-Cal number. If you check box "b" you must write your Social Security number and your birth date. If you check box "c" you need to attach verification documents which are listed on the Information Sheet on Waiver of Court Fees and Costs. After you have checked one of these boxes, you are done. Go to the bottom of the form and date and sign it, you do not need to fill out anything else.

Entry 6. If you did not check box 4, you must complete entry 6. Check the box next to question 6 if your gross monthly income is less than the amount shown on the Information Sheet on Waiver of Court Fees and Costs accompanying the form. If you check this box, skip entry 7, fill out entries 8, 9a, 9d, 9f, and 9g on page two of the form, then date the form and fill out your name and signature on the bottom of page one.

Entry 7. If you did not check box 4 or box 6, you must complete entry 7. Check this box if your income is not enough to pay for the common necessities of life for yourself and your family and still pay court fees and costs. If you check this box, you have to complete page two of the form in its entirety, then date and sign the bottom.

At the bottom of page 1, write the current date, type or print your name legibly, and sign the form.

**INFORMATION SHEET ON WAIVER
OF COURT FEES AND COSTS
(California Rules of Court, rules 3.50–3.63)**

FW-001-INFO

If you have been sued or if you wish to sue someone, and if you cannot afford to pay court fees and costs, you may not have to pay them if:

1. You are receiving **financial assistance** under one or more of the following programs:

- SSI and SSP (Supplemental Security Income and State Supplemental Payments Programs)
- CalWORKs (California Work Opportunity and Responsibility to Kids Act, implementing TANF, Temporary Assistance for Needy Families, formerly AFDC, Aid to Families with Dependent Children Program)
- The Food Stamp Program
- County Relief, General Relief (G.R.), or General Assistance (G.A.)

If you are claiming eligibility for a waiver of court fees and costs because you receive financial assistance under one or more of these programs, and you did not provide your Medi-Cal number or your social security number and birthdate, you must produce documentation confirming benefits from a public assistance agency or one of the following documents, unless you are a defendant in an unlawful detainer action:

PROGRAM	VERIFICATION
SSI/SSP	Medi-Cal Card or Notice of Planned Action or SSI Computer-Generated Printout or Bank Statement Showing SSI Deposit or “Passport to Services”
CalWORKs/TANF (formerly known as AFDC)	Medi-Cal Card or Notice of Action or Income and Eligibility Verification Form or Monthly Reporting Form or Electronic Benefit Transfer Card or “Passport to Services”
Food Stamp Program	Notice of Action or Food Stamp ID Card or “Passport to Services”
General Relief/General Assistance	Notice of Action or Copy of Check Stub or County Voucher

–OR–

2. Your total gross **monthly household income** is less than the following amounts:

NUMBER IN FAMILY	FAMILY INCOME
1	\$ 1,020.83
2	1,375.00
3	1,729.16
4	2,083.33
5	2,437.50

NUMBER IN FAMILY	FAMILY INCOME
6	\$ 2,791.66
7	3,145.83
8	3,500.00
Each additional	354.16

–OR–

3. Your income is not enough to pay for the common **necessaries** of life for yourself and the people you support and also pay court fees and costs.

To apply, fill out the Application for Waiver of Court Fees and Costs (form FW-001) available from the clerk’s office. If you claim no income, you may be required to file a declaration under penalty of perjury. Prison and jail inmates may be required to pay up to the full amount of the filing fee.

If you have any questions and cannot afford an attorney, you may wish to consult the legal aid office, legal services office, or lawyer referral service in your county (listed in the Yellow Pages under “Attorneys”).

If you are asking for review of the decision of an administrative body under Code of Civil Procedure section 1094.5 (administrative mandate), you may ask for a transcript of the administrative proceedings at the expense of the administrative body.

Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/ PETITIONER: DEFENDANT/ RESPONDENT:	
APPLICATION FOR WAIVER OF COURT FEES AND COSTS	CASE NUMBER: _____

I request a court order so that I do not have to pay court fees and costs.

1. a. ☐ I am **not** able to pay any of the court fees and costs.
 b. ☐ I am able to pay **only** the following court fees and costs (specify):

2. My current street or mailing address is (if applicable, include city or town, apartment no., if any, and zip code):

3. a. My occupation, employer, and employees address are (specify):
 b. My spouse's occupation, employer, and employees address are (specify):

4. ☐ I am receiving financial assistance under one or more of the following programs:
 - a. ☐ **SSI and SSP:** Supplemental Security Income and State Supplemental Payments Programs
 - b. ☐ **CalWORKs:** California Work Opportunity and Responsibility to Kids Act, implementing TANF, Temporary Assistance for Needy Families (formerly AFDC)
 - c. ☐ **Food Stamps:** The Food Stamp Program
 - d. ☐ **County Relief, General Relief (G.R.), or General Assistance (G.A.)**
5. If you checked box 4, you must check and complete one of the three boxes below, unless you are a defendant in an unlawful detainer action. Do not check more than one box.
 - a. ☐ (Optional) My Medi-Cal number is (specify):
 - b. ☐ (Optional) My social security number is (specify):

- - and my date of birth is (specify):

[Federal law does not require that you give your social security number. However, if you don't give your social security number, you must check box c and attach documents to verify the benefits checked in item 4.]
 - c. ☐ I am attaching documents to verify receipt of the benefits checked in item 4, if requested by the court.

[See Form FW-001-INFO, Information Sheet on Waiver of Court Fees and Costs, available from the clerk's office, for a list of acceptable documents.]

[If you checked box 4 above, skip items 6 and 7, and sign at the bottom of this side.]

6. ☐ My total gross monthly household income is less than the amount shown on the *Information Sheet on Waiver of Court Fees and Costs* available from the clerk's office.

[if you checked box 6 above, skip item 7, complete items 8, 9a, 9d, 9f, and 9g on the back of this form, and sign at the bottom of this side.]

7. ☐ My income is not enough to pay for the common necessities of life for me and the people in my family whom I support and also pay court fees and costs. **[If you check this box, you must complete the back of this form.]**

WARNING: You must immediately tell the court if you become able to pay court fees or costs during this action. You may be ordered to appear in court and answer questions about your ability to pay court fees or costs.

I declare under penalty of perjury under the laws of the State of California that the information on both sides of this form and all attachments are true and correct.

Date: _____



(TYPE OR PRINT NAME)

(Financial information on reverse)

(SIGNATURE)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

FINANCIAL INFORMATION

8. ☐ My pay changes considerably from month to month. **[If you check this box, each of the amounts reported in item 9 should be your average for the past 12 months.]**

9. MY MONTHLY INCOME

a. My gross monthly pay is: _____ \$ _____

b. **My payroll deductions are (specify purpose and amount):**

(1) _____ \$ _____
 (2) _____ \$ _____
 (3) _____ \$ _____
 (4) _____ \$ _____

My TOTAL payroll deduction amount is: _____ \$ _____

c. My monthly take-home pay is
 (a. minus b.): _____ \$ _____

d. Other money I get each month is (specify **source and amount**; include spousal support, child support, parental support, support from outside the home, scholarships, retirement or pensions, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest or royalty, trust income, annuities, net business income, net rental income, reimbursement of job-related expenses, and net gambling or lottery winnings):

(1) _____ \$ _____
 (2) _____ \$ _____
 (3) _____ \$ _____
 (4) _____ \$ _____

The TOTAL amount of other money is: _____ \$ _____
 (If more space is needed, attach page labeled Attachment 9d.)

e. MY TOTAL MONTHLY INCOME IS

(c. plus d.): _____ \$ _____

f. Number of persons living in my home: _____
 Below list all the persons living in your home, including your spouse, who depend in whole or in part on you for support, or on whom you depend in whole or in part for support:

Name	Age	Relationship	Gross Monthly Income
(1) _____	_____	_____	\$ _____
(2) _____	_____	_____	\$ _____
(3) _____	_____	_____	\$ _____
(4) _____	_____	_____	\$ _____
(5) _____	_____	_____	\$ _____

The TOTAL amount of other money is: _____ \$ _____
 (If more space is needed, attach page labeled Attachment 9f.)

g. MY TOTAL GROSS MONTHLY HOUSEHOLD INCOME IS

(a. plus d. plus f): _____ \$ _____

10. I own or have an interest in the following property:

a. Cash _____ \$ _____

b. Checking, savings, and credit union accounts (list banks):

(1) _____ \$ _____
 (2) _____ \$ _____
 (3) _____ \$ _____
 (4) _____ \$ _____

10. c. Cars, other vehicles, and boats (list make, year, fair market value (FMV), and loan balance of each):

Property	FMV	Loan Balance
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
(3) _____	\$ _____	\$ _____

- d. Real estate (list address, estimated fair market value (FMV), and loan balance of each property):

Property	FMV	Loan Balance
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
(3) _____	\$ _____	\$ _____

- e. Other personal property — jewelry, furniture, furs, stocks, bonds, etc. (list separately):

\$ _____

11. My monthly expenses not already listed in item 9b above are the following:

a. Rent or house payment & maintenance _____ \$ _____
 b. Food and household supplies _____ \$ _____
 c. Utilities and telephone _____ \$ _____
 d. Clothing _____ \$ _____
 e. Laundry and cleaning _____ \$ _____
 f. Medical and dental payments _____ \$ _____
 g. Insurance (life, health, accident, etc.) _____ \$ _____
 h. School, child care _____ \$ _____
 i. Child, spousal support (prior marriage) _____ \$ _____
 j. Transportation and auto expenses (insurance, gas, repair) _____ \$ _____
 k. Installment payments (specify **purpose and amount**):

(1) _____ \$ _____

(2) _____ \$ _____

(3) _____ \$ _____

The TOTAL amount of monthly installment payments is: _____ \$ _____

l. Amounts deducted due to wage assignments and earnings withholding orders: _____ \$ _____

m. Other expenses (specify):

(1) _____ \$ _____

(2) _____ \$ _____

(3) _____ \$ _____

(4) _____ \$ _____

(5) _____ \$ _____

The TOTAL amount of other monthly expenses is: _____ \$ _____

n. MY TOTAL MONTHLY EXPENSES ARE

(add a. through m.): _____ \$ _____

12. Other facts that support this application are (describe unusual medical needs, expenses for recent family emergencies, or other unusual circumstances or expenses to help the court understand your budget; if more space is needed, attach page labeled Attachment 12):

WARNING: You must immediately tell the court if you become able to pay court fees or costs during this action. You may be ordered to appear in court and answer questions about your ability to pay court fees or costs.

Sample Form E

ORDER ON APPLICATION FOR WAIVER OF COURT FEES AND COSTS - INSTRUCTIONS

This form is the order from the court either granting or denying your request to waive fees. The court fills out most of this form. The only parts you will fill out are the caption and entries 1-3. **[Note: The Court of Appeal can only waive the Court of Appeal filing fee of \$655.00.]** Submit this form to the court along with your Application for Waiver of Court Fees and Costs.

The form is also available online in Adobe Acrobat PDF format and may be filled out electronically for free at <http://www.courtinfo.ca.gov/cgi-bin/forms.cgi>. Select "General Legal" forms, then click on Form FW-003.

Filling out the Order on Application for Waiver of Court Fees and Costs form:

Caption

- (1) In the "Attorney or Party Without Attorney" area at the top of the form, fill out your name, mailing address, and telephone number where you can be reached during the day.
- (2) In the next box down, specify the Superior Court, address, and branch name of the court that made the order or judgment you are appealing.
- (3) In the next box down marked "PLAINTIFF/PETITIONER" and "DEFENDANT/RESPONDENT" fill out the plaintiff's name and defendant's name as they appear in the Superior Court case caption.
- (4) In the "CASE NUMBER:" box immediately to the right of the preprinted caption "ORDER ON APPLICATION FOR WAIVER OF COURT FEES AND COSTS", write the Superior Court case number for your case, and the Court of Appeal number if you have one.

Entries 1-3

Entry 1. Indicate the date that your Application for Waiver of Court Fees and Costs was filed with the court. Check the box if there was a previous fee waiver order, and indicate the date it was issued.

Entry 2. Print your name.

Entry 3. Check the box next to entry 3 and the box indicating the application is granted "in whole." If you cannot afford to pay any court fees and costs, check box 3a. Otherwise, check box 3b and indicate what fees and costs you are asking to have waived. If you are asking that the reporter's transcript fees be waived, check box (9) "Other" and write in "Reporter's transcript fees". [Please note: Number (7) "Reporter's Fees (valid for 60 days)" covers only that portion of the fees for taking the notes in the courtroom. This will not get you a waiver of the reporter's transcript fees.]

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):</div> <div>FAX NO.:</div> </div>	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:
PLAINTIFF/ PETITIONER: DEFENDANT/ RESPONDENT:	
ORDER ON APPLICATION FOR WAIVER OF COURT FEES AND COSTS	

1. The application was filed on (date): ☐ A previous order was issued on (date):
2. The application was filed by (name):
3. ☐ IT IS ORDERED that the application is **granted** ☐ in whole ☐ in part (complete item 4 below).
 - a. ☐ **No payments.** Payment of all the fees and costs listed in California Rules of Court, rule 3.61, is **waived**.
 - b. ☐ **The applicant shall pay** all the fees and costs listed in California Rules of Court, rule 3.61, EXCEPT the following:

(1) <input type="checkbox"/> Filing papers.	(6) <input type="checkbox"/> Sheriff and marshal fees.
(2) <input type="checkbox"/> Certification and copying.	(7) <input type="checkbox"/> Reporter's fees* (valid for 60 days).
(3) <input type="checkbox"/> Issuing process and certification.	(8) <input type="checkbox"/> Telephone appearance (Gov. Code, § 68070.1 (c)).
(4) <input type="checkbox"/> Transmittal of papers.	(9) <input type="checkbox"/> Other (specify code section):
(5) <input type="checkbox"/> Court-appointed interpreter.	

Reporter's fees are per diem pursuant to Code Civ. Proc., §§ 269, 274c, and Gov. Code, §§ 69947, 69948, and 72195.
 - c. **Method of payment.** The applicant shall pay all the fees and costs when charged, EXCEPT as follows:
 (1) ☐ Pay (specify): _____ percent. (2) ☐ Pay: \$ _____ per month or more until the balance is paid.
 - d. The clerk of the court, county financial officer, or appropriate county officer is authorized to require the applicant to appear before and be examined by the court no sooner than four months from the date of this order, and not more than once in any four-month period. ☐ The applicant is ordered to appear in this court as follows for review of his or her financial status:

Date:	Time:	Dept.:	Div.:	Room:
-------	-------	--------	-------	-------
 - e. ☐ The clerk is directed to mail a copy of this order only to the applicant's attorney or to the applicant if not represented.
 - f. **All unpaid fees and costs shall be deemed to be taxable costs if the applicant is entitled to costs and shall be a lien on any judgment recovered by the applicant and shall be paid directly to the clerk by the judgment debtor upon such recovery.**
4. ☐ IT IS ORDERED that the application is **denied** ☐ in whole ☐ in part for the following reasons (see Cal. Rules of Court, rules 3.50–3.63):
 - a. ☐ Monthly household income exceeds guidelines (Gov. Code, § 68511.3(a)(6)(B); form FW-001-INFO).
 - b. ☐ Other (Complete line 4b on page 2).
 - c. The applicant shall pay any fees and costs due in this action within 10 days from the date of service of this order or any paper filed by the applicant with the clerk will be of no effect.
 - d. The clerk is directed to mail a copy of this order to all parties who have appeared in this action.
5. ☐ IT IS ORDERED that a **hearing** be held.
 - a. The substantial evidentiary conflict to be resolved by the hearing is (specify):
 - b. The applicant should appear in this court at the following hearing to help resolve the conflict:

Date:	Time:	Dept.:	Div.:	Room:
-------	-------	--------	-------	-------
 - c. The address of the court is (specify):
☐ Same as above
 - d. The clerk is directed to mail a copy of this order only to the applicant's attorney or to the applicant if not represented.

NOTICE: If item 3d or item 5b is filled in and the applicant does not attend the hearing, the court may revoke or change the order or deny the application without considering information the applicant wants the court to consider.

WARNING: The applicant must immediately tell the court if he or she becomes able to pay court fees or costs during this action. The applicant may be ordered to appear in court and answer questions about his or her ability to pay fees or costs.

Date: ☐ _____, Clerk, by ☐ _____, Deputy

JUDICIAL OFFICER

(Clerk may GRANT in full a nondiscretionary fee waiver; see Cal. Rule of Court, rules 3.56.)

Page 1 of 2

PLAINTIFF/PETITIONER (Name): _____	CASE NUMBER:
DEFENDANT/RESPONDENT (Name):	

4b ☐ Application is denied in whole or in part (*specify reasons*):

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown below, and that the mailing of the foregoing and execution of this certificate occurred at
(place): _____, California,
on (date): _____

Clerk, by _____, Deputy

(SEAL)

CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date:

Clerk, by _____, Deputy

Sample Form F

NOTICE DESIGNATING RECORD ON APPEAL - INSTRUCTIONS

After filing your notice of appeal you have 10 days to tell the Superior Court what you want in the record that will be sent to the Court of Appeal; this is called the Notice Designating Record on Appeal. On the next few pages is a form to assist you in designating the record. What you choose to include in your record depends on the issues you wish to raise on appeal. This notice is filed in the Superior Court.

The Notice Designating Record on Appeal is available online in Adobe Acrobat PDF format and may be filled out electronically for free at <http://www.courtinfo.ca.gov/cgi-bin/forms.cgi>. Select "Appellate" forms, then click on Form APP-003.

Filling out the Notice Designating Record on Appeal:

Caption

- (1) In the "Attorney or Party Without Attorney" area at the top of the form, fill out your name, mailing address, and telephone number where you can be reached during the day.
- (2) In the "Superior Court of California, County of" area of the form, specify the county, address, and branch name of the superior court that made the order or judgment you are appealing.
- (3) In the next box on the form marked "PLAINTIFF/PETITIONER" and "DEFENDANT/RESPONDENT" fill out the plaintiff's name and defendant's name as they appear in the superior court case caption.
- (4) In the "Superior Court Case Number" box to the right, write the superior court case number.
- (5) In the "RE: Appeal filed on (*date*)" box, write the date the Notice of Appeal was filed.
- (6) In the "Court of Appeal Case Number (*if known*)" box immediately to the right, write the Court of Appeal case number, if you have it.
- (7) Specify the name of the county after the entry "TO: Clerk of the Superior Court of California County of (*name of county*)"
- (8) After the line marked "NOTICE IS HEREBY GIVEN", check the appropriate box to indicate whether you are the appellant (the appealing party) or respondent (the responding party).

Page 1, Entries 1-4

Check only one of the four boxes in entries 1-4.

Sample Form F

Check box "1" if you plan to prepare your own transcript (appendix) under California Rules of Court, rule 8.124 instead of having the Superior Court prepare a clerk's transcript and you don't want a reporter's transcript. If you check this box, there is no need to fill out pages two or three. Date and sign the bottom of this form and you are done.

Check box "2" if you plan to prepare your own transcript (appendix) under California Rules of Court, rule 8.124 instead of having the Superior Court prepare a clerk's transcript and you also want a reporter's transcript. If you check this box be sure to fill out the reporter's transcript section on page three; you do not have to fill out page two.

Check box "3" if you want the Superior Court to prepare a clerk's transcript but you don't want a reporter's transcript. If you check this box be sure to fill out the clerk's transcript section on page two; you do not have to fill out page three.

Check box "4" if you want the Superior Court to prepare both the clerk's transcript and the reporter's transcript. If you check this box be sure to fill out the clerk's transcript section on page two and the reporter's transcript section on page three.

At the bottom of page 1, write the current date on the form, type or print your name legibly, and sign the form.

Page Two (Notice Designating Clerk's Transcript):

Fill out this page only if you checked box "3" or "4" on page one; if you checked box "1" or "2" you do not need to fill out this page. The first seven documents are filled in for you. You may designate anything that was in the Superior Court file as part of your record on appeal, choosing as few or as many documents as you wish. What you choose to include in your record depends on the issues you wish to raise on appeal. You will need to make a \$100.00 deposit with the Superior Court if you select this option.

Page Three (Notice Designating Reporter's Transcript):

Fill out this page only if you checked box "2" or "4" on page one; if you checked box "1" or "3" you do not need to fill out this page. A reporter's transcript is a word for word typewritten record of everything that was said in court during a trial or hearing. For each day you want transcribed, write the reporter's name, the department of the Superior Court you were in, the date and the nature of the proceeding. The reporter's transcript costs money. You can ask the reporter to give you an estimate of what it will cost in advance or you can pay \$650 per day for days where there were more than three hours to be transcribed or \$350 per day where there were less than three hours to be transcribed.

Sample Form F

Page Four (Proof of Service)

Have someone over the age of 18 who is not a party to the action serve the Notice Designating Record on Appeal and fill out the Proof of Service on page 4 of the form. See instructions accompanying [Sample Form C](#).

Due: 10 days after filing Notice of Appeal

File: Original with Superior Court
(Bring an extra copy to be file-stamped
for your file.)

Serve: Court Reporter (if reporter's transcript requested)
All counsel
All self-represented parties

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<p style="text-align: center;">NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)</p>	
RE: Appeal filed on (date):	Superior Court Case Number: Court of Appeal Case Number (if known):

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal.

TO: Clerk of the Superior Court of California, County of (name of county):

NOTICE IS HEREBY GIVEN that (name):

The ☐ Appellant ☐ Respondent in the above case elects to proceed with the following record on appeal:

(check only one)

1. ☐ (Appendix Only; no Reporter's Transcript)
 - a. elects under rule 8.124 of the California Rules of Court to prepare own transcript in lieu of a court-prepared clerk's transcript.
AND
 - b. elects to have no reporter's transcript. (Date and sign only.)
2. ☐ (Appendix and Reporter's Transcript)
 - a. elects under rule 8.124 of the California Rules of Court to prepare own transcript in lieu of a court-prepared clerk's transcript.
AND
 - b. elects a reporter's transcript as designated on page 3. (Fill out the reporter's transcript section on page 3.)
3. ☐ (Clerk's Transcript Only; no Reporter's Transcript)
 - a. elects under rule 8.120 of the California Rules of Court to proceed with a clerk's transcript as designated on page 2. (Fill out the clerk's transcript section on page 2.)
AND
 - b. elects to have no reporter's transcript.
4. ☐ (Clerk's and Reporter's Transcripts)
 - a. elects under rule 8.120 of the California Rules of Court to proceed with a clerk's transcript as designated on page 2. (Fill out the clerk's transcript section on page 2)
AND
 - b. elects a reporter's transcript as designated on page 3. (Fill out the reporter's transcript section on page 3.)

Date:



(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME:	CASE NUMBER:
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NOTICE DESIGNATING CLERK'S TRANSCRIPT

(Cal. Rules of Court, rule 8.120)

- A. It is requested that the following documents in the superior court file be included in the clerk's transcript (*give the specific title of each document, an accurate description, and the date of filing*):

Document Title and DescriptionDate of Filing

(NOTE: Items 1–7 are required to be a part of the clerk's transcript and will automatically be included.)

1. Notice of appeal
2. Notice designating record on appeal (*this document*)
3. Judgment or order appealed from
4. Notice of entry of judgment (*if any*)
5. Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (*if any*)
6. Ruling on item 5
7. Register of actions (*if any*)
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.
- 16.
- 17.

- B. It is requested that the following EXHIBITS admitted into evidence or marked for identification be copied into clerk's transcript on appeal (*check only one box*):

1. ☐ All Exhibits
2. ☐ Specific Exhibits (*give the exhibit number [for example, Plaintiff's #1, Defendant's B, Respondent's A], a brief description, and admission status.*):

☐ See additional pages.

CASE NAME:

CASE NUMBER:

NOTICE DESIGNATING REPORTER'S TRANSCRIPT
(Cal. Rules of Court, rule 8.130)

Reporter's NameDept.DateNature of Proceedings

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

11.

12.

13.

14.

15.

16.

17.

18.

19.

☐

See additional pages.

CASE NAME:	CASE NUMBER:
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NOTICE TO PARTIES: A copy of this document must be mailed or personally delivered to the other party or parties to this appeal. A PARTY TO THE APPEAL MAY NOT PERFORM THE MAILING OR DELIVERY HIMSELF OR HERSELF. A person who is at least 18 years old and is not a party to this appeal must complete the information below and mail (by first-class mail, postage prepaid) or personally deliver the front and back of this document. When the front and back of this document have been completed and a copy mailed or personally delivered, the original may then be filed with the court.

PROOF OF SERVICE

☐ Mail ☐ Personal Service

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. My residence or business address is (*specify*):
3. I mailed or personally delivered a copy of the *Notice Designating Record on Appeal (Unlimited Civil Case)* as follows (*complete either a or b*):
 - a. ☐ **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope **and**
 - (a) ☐ **deposited** the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (b) ☐ **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served:
 - (b) Address on envelope:
 - (c) Date of mailing:
 - (d) Place of mailing (*city and state*):
 - b. ☐ **Personal delivery.** I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

COURTS AND PUBLIC LAW LIBRARIES

COURTS

Superior Courts in the Second District

You must file all *Notices of Appeal* and Designations of the Record accompanied by appropriate *Proofs of Service* at any filing window at any branch in the county in which your superior court case occurred. For a listing of the superior court locations in your county, please refer to the court's website at www.courtinfo.ca.gov. It is highly recommended that you file these documents at the appeals section of the superior court in your county. Those locations are as follows.

Los Angeles County:

Clerk, Appeals Section
Los Angeles Superior Court
Stanley Mosk Courthouse
111 North Hill St., Room #111
Los Angeles, CA 90013
(213) 974-5238

Ventura County:

Clerk, Appeals Division
Ventura Superior Court
800 S. Victoria Ave., Room #210 (Window 13)
(If mailing filing, P.O. Box 6489)
Venura, CA 93006
(805) 654-2269

San Luis Obispo County:

Clerk, Appeals Division
1050 Monterey St., Room #220
San Luis Obispo, CA 93408
(805) 781-5677

Santa Barbara County:

1100 Anacapa, 2nd Floor
Santa Barbara, CA 93010
(805) 568-2220

California Court of Appeal

For filing motions and briefs in the Court of Appeal, the address is:

Clerk, Court of Appeal
300 South Spring St., Room # 2217
Los Angeles, CA 90013

California Supreme Court

For filing copies of briefs and petitions for review in the California Supreme Court the address is:

California Supreme Court
Second Floor
300 South Spring Street
Los Angeles, CA 90013
(213) 830-7570

OR California Supreme Court
350 McAllister Street
San Francisco, CA 94102
(415) 865-7000

PUBLIC LAW LIBRARIES

All four counties in Division Two have County public law libraries. Some, like Los Angeles County, have multiple branch locations. Below is a listing of the main locations for the law libraries, along with their websites from which other locations can be identified. Many of the libraries' websites contain links to other helpful legal research sites.

Los Angeles County:

301 West First Street
Los Angeles, CA 90012
(213) 629-3531
<http://lalaw.lib.ca.us/>

Ventura County:

800 S. Victoria Ave.
Ventura, CA. 93009
(805) 642-8982
<http://www.infopeople.org/ventura/vclaw/>

San Luis Obispo County:

County Government Center, Room 125

1050 Montgomery St.

San Luis Obispo, CA 93405

(805) 781-5855

<http://www.rain.org/~slolawli/>

Santa Barbara County:

Santa Barbara County Courthouse

1100 Anacapa

Santa Barbara, California 93101

(805) 568-2296

<http://www.countylawlibrary.org/info.htm>

SUMMARY JUDGMENT AND DEMURRER

Demurrers and summary judgments represent special circumstances that necessitate slightly different procedural requirements throughout the appellate process. The three most important differences occur in determining the appealability of your appeal, identifying the order or judgment from which you can appeal, and in identifying the facts in the process of writing the brief. Those differences are discussed below.

Appealability

Demurrer If a plaintiff files a case in superior court and the facts in the complaint do not state a cause of action (that is, they give no legal basis for the defendant to be held responsible), the defendant may bring a **demurrer** asking that the case be dismissed. If a cause of action has been stated, the superior court overrules the demurrer and the case continues on. If no cause of action has been stated but the court believes there may be more facts that will enable the plaintiff to state a cause of action, the court sustains the demurrer “with leave to amend,” in which case the plaintiff can restate his or her case. If the court believes there is no cause of action, the court sustains the demurrer without leave to amend, and the case is dismissed. This ruling is an order but, by statute, may be appealed. (Code of Civil Procedure, section 581d.) In order for the order to be appealable, the order must say the case is dismissed (for more information, refer back to Chapter 1.) On appeal, the Court of Appeal looks only at the complaint and assumes all of the factual allegations are true in order to rule on whether the complaint states a cause of action. Thus, the Statement of Facts in the opening brief should be based on the facts as alleged in the complaint.

Summary judgment In a **summary judgment**, one party may contend there are no facts that need to be decided, or the parties may agree on what the facts are. Either side (and sometimes both sides) may bring a motion for summary judgment arguing that they are entitled to a judgment in their favor without a trial. Unless the parties agree that there is no genuine dispute about material facts in the case, the court must determine whether there are any such disputed facts. Unlike a demurrer, the court is not limited to the allegations of the complaint, and it will review sworn statements or other evidence submitted by the parties in writing. The court will then decide if there is conflicting evidence in the record as to the material facts. If so, the summary judgment motion should be denied because the evidentiary conflict must be resolved in a trial. If not, the court can grant summary judgment in

favor of either of the parties. For example, if all the evidence shows that the light was green, the court does not need to hold a trial to determine whether the light was red or green.

A trial court's ruling granting summary judgment is an order. A party seeking to appeal the ruling must first get a judgment based on that ruling (again, for more information, refer back to Chapter 1.) In looking at the facts on appeal, the question is exactly the same as the issue before the trial court: Is there a genuine dispute as to material facts that must be resolved at a trial? If there is such a factual dispute, summary judgment should not have been granted, the judgment should be reversed, and the case should go back to the trial court for a trial. Thus, if you are the appealing party, your Statement of Facts should emphasize the evidence in the record that you believe conflicts with the trial court's ruling. With appropriate page number citations to the record, you should point out the evidence which demonstrates there is a factual conflict that must be resolved in a trial. If there are no factual disputes, you should argue that the trial court incorrectly applied the law in granting summary judgment to the opposing side.

Statement of the facts in the brief

Your statement of facts will be different if the case was dismissed without a trial. In such a case, the facts have not yet been established by the trial court. Demurrers and summary judgments are two types of pretrial motions that may cause a case to be dismissed without a full trial. Because cases are commonly dismissed on demurrer or summary judgment, we shall explain a little about how to write the statement of facts when appealing from such a dismissal.

Demurrer If a plaintiff files a case in superior court and the facts in the complaint do not state a cause of action (that is, they give no legal basis for the defendant to be held responsible), the defendant may bring a demurrer asking that the case be dismissed. If a cause of action has been stated, the superior court overrules the demurrer and the case continues on. If no cause of action has been stated but the court believes there may be more facts that will enable the plaintiff to state a cause of action, the court sustains the demurrer "with leave to amend," in which case the plaintiff can restate his or her case. If the court believes there is no cause of action, the court sustains the demurrer without leave to amend, and the case is dismissed. This ruling is an order but, by statute, may be appealed. (Code of Civil Procedure, section 581d.) In order for the order to be appealable, the order must say the case is dismissed (for more information, refer back to

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